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EQUIPMENT TRUST DUE OCTOBER 1, 1987

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

Equipment Trust Agreement

Dated as of May 1, 1972

AMONG

MANUFACTURERS HANOVER TRUST COMPANY,
Trustee,

FIRST WESTERN BANK AND TRUST COMPANY,
as Trustee,

AND

TRAILER TRAIN COMPANY

EQUIPMENT TRUST AGREEMENT dated as of May 1, 1972, among MANUFACTURERS HANOVER TRUST COMPANY, a corporation duly organized and existing under the laws of the State of New York, as Trustee (hereinafter called the Trustee), FIRST WESTERN BANK AND TRUST COMPANY, a banking corporation duly organized and existing under the laws of the State of California (hereinafter called the Company), as trustee under a Trust Agreement dated as of May 1, 1972 (hereinafter called the Trust Agreement) between the Company and NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS, and TRAILER TRAIN COMPANY, a corporation duly organized and existing under the laws of the State of Delaware (hereinafter called the Guarantor or the Lessee).

WHEREAS the Company has agreed to cause to be transferred to the Trustee the railroad equipment described in Annex A hereto subject to the provisions hereof; and

WHEREAS security title to such railroad equipment is to be vested in and is to be retained by the Trustee and such railroad equipment is to be leased to the Company hereunder until full title is transferred to the Company under the provisions hereof; and

WHEREAS Equipment Trust Certificates, due October 1, 1987 (hereinafter called Trust Certificates), bearing the unconditional guaranty of the Guarantor, are to be issued and sold hereunder in an aggregate principal amount not exceeding \$3,910,000 at a price not less than 100% of the principal amount thereof, and the net proceeds of such sale are to be deposited with the Trustee to constitute a fund equal to the aggregate principal amount of Trust Certificates so issued and sold to be applied by the Trustee from time to time in part payment of the cost of the Trust Equipment (as hereinafter defined), the remainder of the cost thereof to be paid out of advance rentals to be paid by the Company as provided herein; and

WHEREAS the Company proposes to enter into a Lease of Equipment to be dated as of May 1, 1972 (hereinafter called the Lease) with the Lessee pursuant to which the Company will lease such railroad equipment to the Lessee; and

WHEREAS the texts of the Trust Certificates and the guaranty to be endorsed thereon by the Guarantor are to be substantially in the following forms, respectively:

[FORM OF TRUST CERTIFICATE]

\$.....

No

EQUIPMENT TRUST DUE OCTOBER 1, 1987

Unconditionally Guaranteed as to Principal and Dividends by

TRAILER TRAIN COMPANY

EQUIPMENT TRUST CERTIFICATE

Total Authorized Issue
\$3,910,000

MANUFACTURERS HANOVER TRUST COMPANY, Trustee

Dividends at the Rate of % Per Annum Payable
April 1 and October 1

MANUFACTURERS HANOVER TRUST COMPANY, as Trustee under an Equipment Trust Agreement (hereinafter called the Agreement) dated as of May 1, 1972, among MANUFACTURERS HANOVER TRUST COMPANY, Trustee (hereinafter called the Trustee) FIRST WESTERN BANK AND TRUST COMPANY, as trustee (hereinafter called the Company) and TRAILER TRAIN COMPANY (hereinafter called the Guarantor), hereby certifies that

or registered assigns, is entitled to an interest in the principal amount of \$3,910,000 in the EQUIPMENT TRUST DUE OCTOBER 1, 1987, UNCONDITIONALLY GUARANTEED AS TO PRINCIPAL AND DIVIDENDS BY TRAILER TRAIN COMPANY, payable on October 1, 1987,

upon presentation and surrender of this Certificate to the Trustee at its corporate trust office in the Borough of Manhattan, City and State of New York, and to payment of dividends on the unpaid principal amount represented by this Certificate from the date hereof until the principal amount hereof is due and payable, at the rate of % per annum, payable semiannually on April 1 and October 1 in each year, with interest at the rate of % per annum on any overdue principal and dividends to the extent that it shall be legally enforceable, all in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts, but payable only out of rentals or other moneys received by the Trustee and applicable to such payment under the provisions of the Agreement.

This Certificate is one of an authorized issue of Certificates all having a final maturity of October 1, 1987, and having an aggregate principal amount of \$3,910,000, all issued or to be issued under and subject to the terms of the Agreement under which certain railroad equipment leased to the Company and in turn leased to the Guarantor (or, in lieu thereof, cash or obligations defined in the Agreement as Authorized Investments) is held by the Trustee in trust for the equal and ratable benefit of the holders of Certificates, to which Agreement (a copy of which is on file with the Trustee at its said office) reference is made for a full statement of the rights and obligations of the Company and the Guarantor, the duties and immunities of the Trustee and the rights of the holder hereof thereunder. The Company has no personal liability to the holders of the Certificates and its obligations under the Agreement are limited as provided therein.

As a sinking fund for the Certificates, the Agreement provides for the payment by the Company to the Trustee, but only out of moneys received by the Company as contemplated by the Agreement, on or before April 1 and October 1 in each year, commencing April 1, 1978, and continuing to and including April 1, 1987, of rental calculated as provided in the Agreement so that the aggregate of the dividends and sinking fund rental payments payable on each such date and the aggregate of dividends and principal payable on October 1,

the payment of the interest and principal, (b) commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof which are rated "A" or better by Standard & Poor's Corporation and (c) certificates of deposit of or time deposits in banks or trust companies incorporated and doing business under the laws of the United States of America or one of the states thereof having a capital and surplus aggregating at least \$50,000,000; all of which shall mature within one year or less.

Business Day shall mean any calendar day, excluding Saturday, Sunday and legal holidays or days on which banking institutions are authorized by law to close in The City of New York.

Casualty Occurrence shall mean any occurrence specified in Section 5.07 hereof to be a Casualty Occurrence.

Certificate of Acceptance shall mean a Certificate of Acceptance (as defined in a Manufacturing Agreement).

Corporate Trust Office shall mean the principal office of the Trustee in the City and State of New York, at which the corporate trust business of the Trustee shall, at the time in question, be administered, which office is, at the date of execution of this Agreement, located at 40 Wall Street, New York, New York 10015.

Cost, when used with respect to the Equipment, shall mean the actual cost thereof (including freight charges, if any, from an Owner's plant to a point of delivery to the Lessee and applicable local or state sales taxes, if any, and including only such other items as may be properly included in such cost under sound accounting practice), as evidenced by an Owner's invoice with respect to such Equipment.

Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.01 hereof, (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(a)(ii) hereof and on deposit with the Trustee and (c), when required or indicated by the context, any Authorized Investments purchased by the use of Deposited Cash pursuant to the provisions of Section 9.04 hereof and held by the Trustee.

tory to the Trustee, the Company and the Guarantor) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for a new Trust Certificate for the unpaid principal amount represented thereby on the date of such surrender the Trustee will, subject to timely receipt of the necessary funds, mail its check, or on request of the holder the Trustee will wire by 11.00 a.m. New York time funds immediately available to such holder on such date, to such registered holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder without requiring the surrender of such Trust Certificate.

SECTION 2.03. Form, Execution and Characteristics of Trust Certificates.

(a) The Trust Certificates and the guaranty to be endorsed thereon by the Guarantor as hereinafter in Section 7.01 hereof provided shall be in substantially the forms hereinbefore set forth.

(b) The Trust Certificates shall be signed in the name and on behalf of the Trustee by the facsimile signature of one of its Vice Presidents or one of its Assistant Vice Presidents and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of its Secretary or one of its Assistant Secretaries or one of its Assistant Trust Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any Trust Certificate shall cease to be such officer of the Trustee before such Trust Certificate shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of such Trust Certificate, such Trust Certificate shall be adopted by the Trustee and be issued and delivered as though such person had at all times been such officer of the Trustee.

(c) The Trust Certificates (i) shall be registered, as to both principal and dividends, in the names of the holders; (ii) shall be trans-

ferable in whole or in part upon presentation and surrender thereof for transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iii) shall be dated as of the date of issue thereof if issued prior to October 1, 1972, or, if issued on or after October 1, 1972, as of the dividend payment date next preceding the date of issue, unless issued on a dividend payment date, in which event they shall be dated as of the date of issue, or unless issued in exchange for another Trust Certificate or Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date; (iv) shall entitle the registered holders to dividends from the date thereof; and (v) shall be exchangeable at the Corporate Trust Office for an equal aggregate principal amount of Trust Certificates of authorized denominations.

(d) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

(e) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration of the Trust Certificates and the registration of transfers of the Trust Certificates and, upon presentation of any Trust Certificate for such purpose, the Trustee shall register any transfer as hereinabove provided, under such reasonable regulations as it may prescribe and subject to the provisions of subparagraph (h) of this Section 2.03.

(f) No service charge shall be made for any transfer or exchange of Trust Certificates, but the Trustee shall require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such transfer or exchange.

(g) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer

the payment of the interest and principal, (b) commercial paper of any company incorporated and doing business under the laws of the United States of America or one of the states thereof which are rated "A" or better by Standard & Poor's Corporation and (c) certificates of deposit of or time deposits in banks or trust companies incorporated and doing business under the laws of the United States of America or one of the states thereof having a capital and surplus aggregating at least \$50,000,000; all of which shall mature within one year or less.

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Deposited Cash shall mean the aggregate of (a) cash on deposit with the Trustee as provided in the first sentence of Section 2.01 hereof, (b) any sums restored to Deposited Cash from rentals pursuant to Section 5.04(a)(ii) hereof and on deposit with the Trustee and (c), when required or indicated by the context, any Authorized Investments purchased by the use of Deposited Cash pursuant to the provisions of Section 9.04 hereof and held by the Trustee.

tory to the Trustee, the Company and the Guarantor) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for a new Trust Certificate for the unpaid principal amount represented thereby on the date of such surrender the Trustee will, subject to timely receipt of the necessary funds, mail its check, or on request of the holder the Trustee will wire by 11:00 a.m. New York time funds immediately available to such holder on such date, to such registered holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder without requiring the surrender of such Trust Certificate.

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(b) The Trust Certificates shall be signed in the name and on behalf of the Trustee by the facsimile signature of one of its Vice Presidents or one of its Assistant Vice Presidents and its corporate seal or a facsimile thereof shall be affixed or imprinted thereon and attested by the manual signature of its Secretary or one of its Assistant Secretaries or one of its Assistant Trust Officers. In case any officer of the Trustee whose signature, whether facsimile or not, shall appear on any Trust Certificate shall cease to be such officer of the Trustee before such Trust Certificate shall have been issued and delivered by the Trustee or shall not have been acting in such capacity on the date of such Trust Certificate, such Trust Certificate shall be adopted by the Trustee and be issued and delivered as though such person had at all times been such officer of the Trustee.

(c) The Trust Certificates (i) shall be registered, as to both principal and dividends, in the names of the holders; (ii) shall be trans-

ferable in whole or in part upon presentation and surrender thereof for transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iii) shall be dated as of the date of issue thereof if issued prior to October 1, 1972, or, if issued on or after October 1, 1972, as of the dividend payment date next preceding the date of issue, unless issued on a dividend payment date, in which event they shall be dated as of the date of issue, or unless issued in exchange for another Trust Certificate or Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date; (iv) shall entitle the registered holders to dividends from the date thereof; and (v) shall be exchangeable at the Corporate Trust Office for an equal aggregate principal amount of Trust Certificates of authorized denominations.

(d) Anything contained herein to the contrary notwithstanding, the parties hereto may deem and treat the registered holder of any Trust Certificate as the absolute owner of such Trust Certificate for all purposes and shall not be affected by any notice to the contrary.

(e) The Trustee shall cause to be kept at the Corporate Trust Office books for the registration of the Trust Certificates and the registration of transfers of the Trust Certificates and, upon presentation of any Trust Certificate for such purpose, the Trustee shall register any transfer as hereinabove provided, under such reasonable regulations as it may prescribe and subject to the provisions of subparagraph (h) of this Section 2.03.

(f) No service charge shall be made for any transfer or exchange of Trust Certificates, but the Trustee shall require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any such transfer or exchange.

(g) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer

tinuing so much of the following amounts as are indefeasibly received by the Company at any time after any Event of Default and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences paid for or with respect to the Trust Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Company pursuant to clause (i) of subparagraph (b) of the first paragraph of § 9 of the Lease or for or with respect to the Trust Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Company pursuant to the Lease as are indefeasibly received by the Company and as shall equal the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payment (including payments in respect of Casualty Occurrences) then due and payable under this Agreement; it being understood that "income and proceeds from the Trust Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Company prior to the existence of such an Event of Default which exceeded the amounts required to make the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date on which amounts with respect thereto received by the Company were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. The Trustee agrees, however, that if it obtains a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount; *provided, however*, that nothing contained herein limiting the liability of the Company shall derogate from the right of the Trustee to proceed against the Equipment or the Guarantor as provided for herein for the

tory to the Trustee, the Company and the Guarantor) obligating such holder, prior to any transfer or other disposition thereof, to surrender the same to the Trustee for a new Trust Certificate for the unpaid principal amount represented thereby on the date of such surrender the Trustee will, subject to timely receipt of the necessary funds, mail its check, or on request of the holder the Trustee will wire by 11.00 a.m. New York time funds immediately available to such holder on such date, to such registered holder at his address shown on the registry books maintained by the Trustee or at such other address as may be directed in writing by such holder without requiring the surrender of such Trust Certificate.

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ferable in whole or in part upon presentation and surrender thereof for transfer at the Corporate Trust Office, accompanied by appropriate instruments of assignment and transfer, duly executed by the registered holder of the surrendered Trust Certificate or Certificates or by duly authorized attorney, in form satisfactory to the Trustee; (iii) shall be dated as of the date of issue thereof if issued prior to October 1, 1972, or, if issued on or after October 1, 1972, as of the dividend payment date next preceding the date of issue, unless issued on a dividend payment date, in which event they shall be dated as of the date of issue, or unless issued in exchange for another Trust Certificate or Certificates bearing unpaid dividends from an earlier date, in which case they shall be dated as of such earlier date; (iv) shall entitle the registered holders to dividends from the date thereof; and (v) shall be exchangeable at the Corporate Trust Office for an equal aggregate principal amount of Trust Certificates of authorized denominations.

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(g) Each Trust Certificate delivered pursuant to any provision of this Agreement in exchange or substitution for, or upon the transfer

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railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company and the Lessee requiring the specific performance thereof.

SECTION 6.07. *Trustee To Give Notice of Default.* The Trustee shall give to the holders of the Trust Certificates notice of each Event of Default hereunder known to the Trustee, within 30 days after it learns of the same, unless remedied or cured before the giving of such notice.

SECTION 6.08. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action so directed would be in conflict with any other provision of this Agreement or any rule of law.

SECTION 6.09. *Unconditional Right of Holders of Trust Certificates to Sue for Principal and Dividends.* Notwithstanding any other provision in this Agreement, the right of any holder of any Trust Certificate to receive payment of the principal of, and dividends on, such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except that no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66 $\frac{2}{3}$ % of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however*, that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER

TRUST COMPANY,

Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

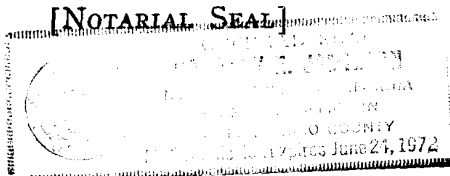
[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this 10th day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

[NOTARIAL SEAL]



railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company and the Lessee requiring the specific performance thereof.

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SECTION 6.08. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action so directed would be in conflict with any other provision of this Agreement or any rule of law.

SECTION 6.09. *Unconditional Right of Holders of Trust Certificates to Sue for Principal and Dividends.* Notwithstanding any other provision in this Agreement, the right of any holder of any Trust Certificate to receive payment of the principal of, and dividends on, such Trust Certificate, on or after the respective due dates expressed in such Trust Certificate, or to institute suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder, except that no such suit shall be instituted if and to the extent that the institution or prosecution thereof or the entry of judgment therein would, under

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

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SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66 $\frac{2}{3}$ % of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however*, that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER

TRUST COMPANY,

Trustee.

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

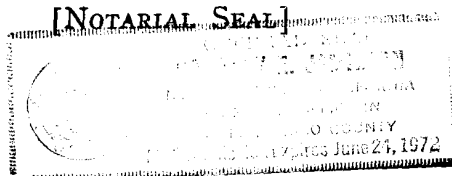
[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this 10th day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

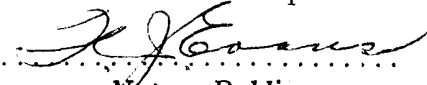
[Signature]
Notary Public

[NOTARIAL SEAL]



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:-

On this 11th day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

tinuing so much of the following amounts as are indefeasibly received by the Company at any time after any Event of Default and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences paid for or with respect to the Trust Equipment pursuant to the Lease and (b) any and all payments or proceeds received by the Company pursuant to clause (i) of subparagraph (b) of the first paragraph of § 9 of the Lease or for or with respect to the Trust Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) or otherwise payable to the Company pursuant to the Lease as are indefeasibly received by the Company and as shall equal the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date such amounts received by the Company were required to be paid to it pursuant to the Lease or as shall equal any other payment (including payments in respect of Casualty Occurrences) then due and payable under this Agreement; it being understood that "income and proceeds from the Trust Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) which were received by the Company prior to the existence of such an Event of Default which exceeded the amounts required to make the rental payments specified in the first paragraph of this Section 5.04 due and payable by the Company on the date on which amounts with respect thereto received by the Company were required to be paid to it pursuant to the Lease or which exceeded any other payments due and payable under this Agreement at the time such amounts were payable under the Lease. The Trustee agrees, however, that if it obtains a judgment against the Company for an amount in excess of the amounts payable by the Company pursuant to the limitations set forth in this paragraph, it will, accordingly, limit its execution of such judgment to such amount; *provided, however*, that nothing contained herein limiting the liability of the Company shall derogate from the right of the Trustee to proceed against the Equipment or the Guarantor as provided for herein for the

railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company and the Lessee requiring the specific performance thereof.

SECTION 6.07. *Trustee To Give Notice of Default.* The Trustee shall give to the holders of the Trust Certificates notice of each Event of Default hereunder known to the Trustee, within 30 days after it learns of the same, unless remedied or cured before the giving of such notice.

SECTION 6.08. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action so directed would be in conflict with any other provision of this Agreement or any rule of law.

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IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER

TRUST COMPANY,

Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

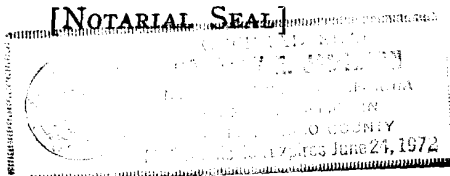
[NOTARIAL SEAL]

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CITY AND COUNTY OF SAN FRANCISCO } ss.:

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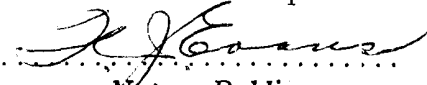
[Signature]
Notary Public

[NOTARIAL SEAL]



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:-

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Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

| <u>Type</u> | <u>Quantity</u> | <u>Lessee's Car Numbers (All Inclusive)</u> | <u>Unit Cost</u> | <u>Total Cost</u> |
|---|-----------------|---|----------------------|-----------------------|
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 603576 to 603645 | \$15,310.00 | \$1,071,700.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 56 | 970745 to 970747 970750 970752 to 970803 | 21,300.00 | 1,192,800.00 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 62 | 158315 to 158376 | 15,295.00 | 948,290.00 |
| | 36 | 964117 to 964152 | 17,950.00 | 646,200.00 |
| 89'4" 70-ton capacity, standard level, auto rack flat cars | 7 | 940773 to 940779 | 17,550.91 | 122,856.37 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 253650 to 253719 | 15,300.00 | 1,071,000.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 10 | 972966 to 972975 | 21,357.00 | 213,570.00 |
| | <u>311</u> | | | <u>\$5,266,416.37</u> |

railroad or premises approved by the Trustee until the Trustee shall have leased, sold or otherwise disposed of the same. It is hereby expressly covenanted and agreed that the performance of this covenant is of the essence of this Agreement and that upon application to any court having jurisdiction in the premises, the Trustee shall be entitled to a decree against the Company and the Lessee requiring the specific performance thereof.

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SECTION 6.08. *Control by Holders of Trust Certificates.* The holders of a majority in aggregate unpaid principal amount of the then outstanding Trust Certificates, by an instrument or instruments in writing executed and delivered to the Trustee, shall have the right to direct the time, method, and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee; *provided, however,* that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action so directed would be in conflict with any other provision of this Agreement or any rule of law.

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Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

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Notary Public

Notary Public, State of New York
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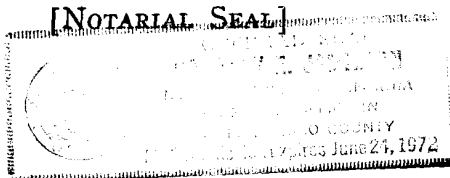
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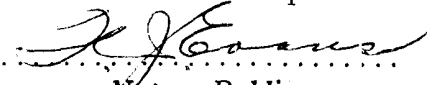
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(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

(c) This Agreement shall be deemed to have been executed on the date of the acknowledgment thereof by the officer of the Trustee who signed it on behalf of the Trustee.

(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER

TRUST COMPANY,

Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

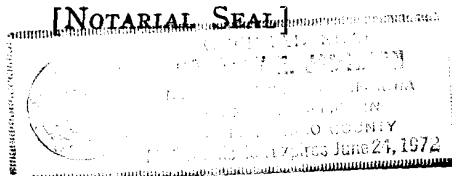
[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this 10th day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

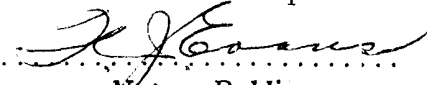
[Signature]
Notary Public

[NOTARIAL SEAL]



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:-

On this ~~11th~~ day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

| <u>Type</u> | <u>Quantity</u> | <u>Lessee's Car Numbers (All Inclusive)</u> | <u>Unit Cost</u> | <u>Total Cost</u> |
|---|-----------------|---|----------------------|-----------------------|
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 603576 to 603645 | \$15,310.00 | \$1,071,700.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 56 | 970745 to 970747 970750 970752 to 970803 | 21,300.00 | 1,192,800.00 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 62 | 158315 to 158376 | 15,295.00 | 948,290.00 |
| | 36 | 964117 to 964152 | 17,950.00 | 646,200.00 |
| 89'4" 70-ton capacity, standard level, auto rack flat cars | 7 | 940773 to 940779 | 17,550.91 | 122,856.37 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 253650 to 253719 | 15,300.00 | 1,071,000.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 10 | 972966 to 972975 | 21,357.00 | 213,570.00 |
| | <u>311</u> | | | <u>\$5,266,416.37</u> |

SECTION 9.09. *Return of Certain Moneys to Company.* Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal or dividends on any Trust Certificates which remain unclaimed for four years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

ARTICLE TEN

MISCELLANEOUS

SECTION 10.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 10.02. *No Recourse.* No recourse under or upon any obligation, covenant or agreement of this Agreement, or under the guaranty endorsed on any Trust Certificate, or for any claim based thereon or otherwise in respect thereof shall be had against any stockholder, officer or director, as such, past, present or future, of the Company or the Guarantor, or against any beneficiary of a trust for which the

Company is acting as trustee, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement and said guaranty are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors, as such, of the Company or the Guarantor or any of them, under or by reason by any of the obligations, covenants and agreements contained in this Agreement or in said guaranty, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and said guaranty.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, covenants, undertakings and agreements of the Company are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Company, or any beneficiary of the trust under which the Company is acting on account of this Agreement or on account of any representation, covenant, undertaking or agreement of the Company or any beneficiary under the Trust Agreement, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Trustee and by all persons claiming by, through or under the Trustee; *provided, however*, that the Trustee or any person claiming by, through

Corporate Trust Office and upon proof of holding as provided in Section 8.02 hereof, revoke such action in so far as concerns such Trust Certificate. Except as aforesaid, any such action taken by the holder of any Trust Certificate shall be conclusive and binding upon such holder and upon all future holders and owners of such Trust Certificate and of any Trust Certificate issued in exchange or substitution therefor, irrespective of whether or not any notation in regard thereto is made upon such Trust Certificate. Any action taken by the holders of the required percentage in aggregate principal amount of the outstanding Trust Certificates specified in this Agreement shall be conclusive and binding upon the Company, the Lessee, the Trustee and the holders of all the Trust Certificates.

ARTICLE NINE

THE TRUSTEE

SECTION 9.01. *Acceptance of Trust.* The Trustee hereby accepts the trust imposed upon it by this Agreement and covenants and agrees to perform the same as herein expressed.

SECTION 9.02. *Duties and Responsibilities of the Trustee.* In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Agreement, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provision of this Agreement shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own wilful misconduct, except that

(a) prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred:

(1) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Agree-

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

SECTION 10.05. *Notices.* All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered or mailed by registered mail (a) to the Company, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer, or to such other address as may hereafter be furnished to the Trustee in writing by the Company, (b) to the Guarantor, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President--Finance, or at such other address as may hereafter be furnished to the Trustee in writing by the Guarantor and (c) to the Trustee at the Corporate Trust Office, or at such other address as may hereafter be furnished to the Company and the Guarantor in writing by the Trustee. An affidavit by any person representing or acting on behalf of the Company, the Guarantor or the Trustee, as the case may be, as to such mailing, having the registry receipt attached, shall be conclusive evidence of the giving of such demand, notice or communication.

SECTION 10.06. *Amendment or Waiver.* Any provision of this Agreement may be amended or waived with the written consent of the holders of not less than 66 $\frac{2}{3}$ % of the aggregate unpaid principal amount of the Trust Certificates then outstanding; *provided, however*, that no such amendment or waiver shall (1) reduce the amount of principal, change the amount or dates of payment of instalments of principal or reduce the rate or extend the time of payment of dividends with respect to the Trust Certificates without the consent of the holders of each Trust Certificate so affected, (2) reduce the amount of or extend the time of payment of any rentals payable under this Agreement or release or provide for the release of any of the Trust Equipment or any other property or cash held by the Trustee in trust, otherwise than as expressly permitted by the present terms of this Agreement, without the consent of the holders of 100% of the aggregate unpaid principal amount of Trust Certificates then outstanding, or (3) reduce the percentage of the aggregate unpaid principal amount of Trust Certificates then outstanding, the holders of which are required to approve any amendment or to effect any waiver.

SECTION 10.07. *Effect of Headings; Counterparts; Date Executed; Governing Law.*

(a) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

(b) This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and all such counterparts shall together constitute but one and the same instrument.

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(d) The provisions of this Agreement, and all the rights and obligations of the parties hereunder, shall be governed by the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER
TRUST COMPANY,

Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST
COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

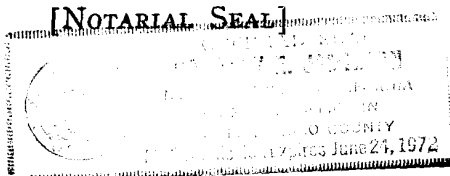
[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

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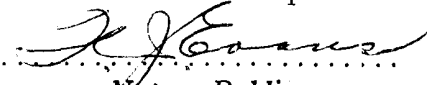
[Signature]
Notary Public

[NOTARIAL SEAL]



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:-

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Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

| <u>Type</u> | <u>Quantity</u> | <u>Lessee's Car Numbers (All Inclusive)</u> | <u>Unit Cost</u> | <u>Total Cost</u> |
|---|-----------------|---|----------------------|-----------------------|
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 603576 to 603645 | \$15,310.00 | \$1,071,700.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 56 | 970745 to 970747 970750 970752 to 970803 | 21,300.00 | 1,192,800.00 |
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| 89'4" 70-ton capacity, standard level, auto rack flat cars | 7 | 940773 to 940779 | 17,550.91 | 122,856.37 |
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SECTION 9.09. *Return of Certain Moneys to Company.* Notwithstanding any provision of this Agreement, any moneys paid to the Trustee which are applicable to the payment of the principal or dividends on any Trust Certificates which remain unclaimed for four years after the day when such moneys were due and payable shall then be repaid to the Company upon Request, and the holders of such Trust Certificates shall thereafter be entitled to look only to the Company for payment thereof and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the Company as aforesaid, the Trustee may first publish a notice, in such form as may be deemed appropriate by the Trustee in respect of the Trust Certificates so payable and not presented and in respect of the provisions hereof relating to the repayment to the Company of the moneys held for the payment thereof.

ARTICLE TEN

MISCELLANEOUS

SECTION 10.01. *Rights Confined to Parties and Holders.* Nothing expressed or implied herein is intended or shall be construed to confer upon or to give to any person, firm or corporation, other than the parties hereto and the holders of the Trust Certificates, any right, remedy or claim under or by reason of this Agreement or of any term, covenant or condition hereof, and all the terms, covenants, conditions, promises and agreements contained herein shall be for the sole and exclusive benefit of the parties hereto and their successors and of the holders of the Trust Certificates.

SECTION 10.02. *No Recourse.* No recourse under or upon any obligation, covenant or agreement of this Agreement, or under the guaranty endorsed on any Trust Certificate, or for any claim based thereon or otherwise in respect thereof shall be had against any stockholder, officer or director, as such, past, present or future, of the Company or the Guarantor, or against any beneficiary of a trust for which the

Company is acting as trustee, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute or otherwise; it being expressly agreed and understood that this Agreement and said guaranty are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors, as such, of the Company or the Guarantor or any of them, under or by reason by any of the obligations, covenants and agreements contained in this Agreement or in said guaranty, or implied therefrom, and that any and all personal liability, either at common law or in equity, or by statute or constitution, of every such stockholder, officer or director is hereby expressly waived as a condition of and consideration for the execution of this Agreement and said guaranty.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Company, while in form purporting to be the representations, covenants, undertakings and agreements of the Company are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Company or for the purpose or with the intention of binding the Company personally but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by the Company not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Company, or any beneficiary of the trust under which the Company is acting on account of this Agreement or on account of any representation, covenant, undertaking or agreement of the Company or any beneficiary under the Trust Agreement, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Trustee and by all persons claiming by, through or under the Trustee; *provided, however*, that the Trustee or any person claiming by, through

or under any of them, making claim hereunder, may look to the Trust Estate for satisfaction of the same.

SECTION 10.03. *Binding Upon Assigns.* Except as otherwise provided herein, the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 10.04. *Satisfaction of Obligations.* All obligations of the Company hereunder, including, without limitation, the obligations under Sections 5.04, 5.06, 5.07, 5.09, 6.06, 7.02 and 7.03, and the third paragraph of Section 9.05 hereof, but excluding the obligations under Section 4.03 hereof and any provisions requiring the execution of any instrument by the Company, shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Guarantor shall be liable in respect of its guaranty hereunder for all such obligations of the Company whether or not the Lease is in effect. The Company shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for any Event of Default hereunder.

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IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

MANUFACTURERS HANOVER

TRUST COMPANY,

Trustee

[CORPORATE SEAL]

by

Vice President.

ATTEST:

Assistant Secretary.

FIRST WESTERN BANK AND TRUST

COMPANY, as trustee,

[CORPORATE SEAL]

by

Trust Officer.

ATTEST:

Assistant Secretary.

TRAILER TRAIN COMPANY,

[CORPORATE SEAL]

by

Vice President—Finance.

ATTEST:

Assistant Secretary.

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

On this 10th day of May, 1972, before me personally appeared T. C. CRANE, to me personally known, who, being by me duly sworn, says that he is a Vice President of MANUFACTURERS HANOVER TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[Signature]
Notary Public

Notary Public, State of New York
Qualified in New York City
Certificate filed in New York County
Commission Expires March 30, 1974

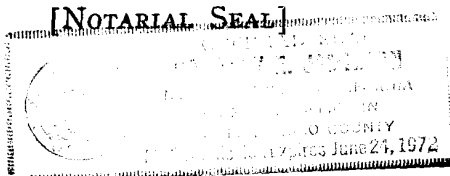
[NOTARIAL SEAL]

STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.:

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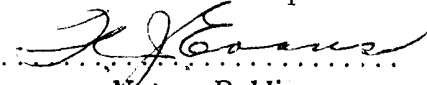
[Signature]
Notary Public

[NOTARIAL SEAL]



STATE OF ILLINOIS }
COUNTY OF COOK } ss.:-

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Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

ANNEX A TO EQUIPMENT TRUST AGREEMENT

| <u>Type</u> | <u>Quantity</u> | <u>Lessee's Car Numbers (All Inclusive)</u> | <u>Unit Cost</u> | <u>Total Cost</u> |
|---|-----------------|---|----------------------|-----------------------|
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 603576 to 603645 | \$15,310.00 | \$1,071,700.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 56 | 970745 to 970747 970750 970752 to 970803 | 21,300.00 | 1,192,800.00 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 62 | 158315 to 158376 | 15,295.00 | 948,290.00 |
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| 89'4" 70-ton capacity, standard level, all purpose flat cars | 10 | 972966 to 972975 | 21,357.00 | 213,570.00 |
| | <u>311</u> | | | <u>\$5,266,416.37</u> |

ANNEX B TO EQUIPMENT TRUST AGREEMENT

Lease of Equipment

BY AND BETWEEN

FIRST WESTERN BANK AND TRUST COMPANY,
as Trustee

AND

TRAILER TRAIN COMPANY

Dated as of May 1, 1972

LEASE OF EQUIPMENT dated as of May 1, 1972, between FIRST WESTERN BANK AND TRUST COMPANY, a California banking corporation (hereinafter called the Lessor), as trustee under a Trust Agreement dated as of May 1, 1972 (hereinafter called the Trust Agreement) between the Lessor and NORTHWESTERN NATIONAL BANK OF MINNEAPOLIS (hereinafter called the Beneficiary), and TRAILER TRAIN COMPANY, a Delaware corporation (hereinafter called the Lessee).

WHEREAS as the Lessor is entering into three Manufacturing Agreements dated as of May 1, 1972 (each such Manufacturing Agreement hereinafter called a Manufacturing Agreement) with the Lessee and ACF Industries Incorporated, Pullman Incorporated (Pullman-Standard Division) and Bethlehem Steel Corporation, respectively, pursuant to which the Lessor has agreed to purchase and take delivery of the Railroad equipment described in Schedule A hereto (hereinafter sometimes called the Equipment); and

WHEREAS the Lessee has agreed to lease from the Lessor all the units of the Equipment, or such lesser number of units as are delivered and accepted and settled for under the Equipment Trust Agreement (as hereinafter defined) on or prior to September 15, 1972 (each such unit hereinafter called a Unit and collectively the Units) at the rentals and for the term and upon the conditions hereinafter provided; and

WHEREAS the Lessor and the Lessee are entering into an Equipment Trust Agreement dated as of May 1, 1972 (herein called the Equipment Trust Agreement), with Manufacturers Hanover Trust Company, as Trustee (hereinafter called the Trustee), under which security title to the Units will be reserved to the Trustee until the Lessor fulfills all its obligations under the Equipment Trust Agreement;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject and subordinate to all the rights and remedies of the Trustee under the Equipment Trust Agreement.

§ 1. *Delivery and Acceptance of Units.* The Lessor will cause each Unit accepted pursuant to a Manufacturing Agreement to be delivered to the Lessee at the same point or points within the United States of America at which such Unit is delivered to the Lessor under such Manufacturing Agreement, such point or points, however, to be mutually acceptable to the Lessor and the Lessee. Upon such delivery, the Lessee will cause an inspector of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and to execute and deliver to the Lessor and to the Trustee a Lessee's Certificate (as defined in the Equipment Trust Agreement and complying with the provisions of Section 4.04(a) thereof), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee under this Lease and shall be subject thereafter to all the terms and conditions of this Lease and such Lessee's Certificate shall be absolutely binding upon the Lessee. Any Unit excluded from or substituted under the Equipment Trust Agreement pursuant to the second paragraph of Section 4.01 thereof shall likewise be excluded from this Lease.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 31 consecutive semiannual payments, payable on April 1 and October 1 in each year commencing October 1, 1972. The first such semiannual payment shall be in an amount equal to 0.023333% of the Cost (as such term is defined in the Equipment Trust Agreement) of each Unit subject to this Lease for each day elapsed from and including the Settlement Date (as defined in Section 4.02 of the Equipment Trust Agreement) for such Unit to October 1, 1972. The next 10 such semiannual payments shall each be in an amount equal to 3.10170% of the Cost of each such Unit subject to this Lease on the date of such payment and the next 20 such semiannual payments shall each be in an amount equal to 5.53842% of the Cost of each such Unit subject to this Lease on the date of such payment. In addition, the Lessee shall pay to the Lessor (i) on the Settlement Date for each Unit, if such Settlement Date is later than the 31st day following the date of acceptance of such Unit pursuant to § 1 hereof, additional rental

in an amount equal to interest on the Cost of such Unit from such 31st day to and including the Settlement Date, at a rate per annum equal to the prime rate which the Trustee would charge on such Settlement Date for 90-day loans to borrowers of the highest credit standing and (ii) on October 1, 1972, additional rental in an amount equal to 8.40% per annum of the amount from time to time remaining on deposit with the Trustee as Deposited Cash (as defined in the Equipment Trust Agreement) from the original date of issue of the Trust Certificates (as defined in the Equipment Trust Agreement) to the date of application of such Deposited Cash or October 1, 1972, as the case may be. If any of the payment dates referred to above is not a Business Day (as defined in the Equipment Trust Agreement), the payment shall be payable on the next succeeding Business Day (without interest).

Notwithstanding anything to the contrary contained herein, any and all sums paid by the Lessee pursuant to its guaranty set forth in the first paragraph of Section 7.01 of the Equipment Trust Agreement in respect of the obligations set forth in Sections 5.04(c), (d) and (e) thereof not attributable to an Event of Default (as hereinafter defined) hereunder or to late payment shall be thereupon deemed to have been paid in reduction or satisfaction, to the extent thereof, of any rental payments then due and payable by the Lessee to the Lessor under this § 2.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, during the original term hereof (other than the rental payable pursuant to clause (i) of the fourth sentence of this § 2, and any amount payable in respect of a Unit which has not been settled for pursuant to Section 4.02 of the Equipment Trust Agreement by reason of such Unit's having suffered a Casualty Occurrence, which rental and amount shall be paid to the Lessor at the address set forth in the second sentence of this paragraph), in immediately available funds in New York City for the account of the Lessor, in care of the Trustee at its office at 40 Wall Street, New York, N. Y. 10015, attention of Corporate Trust Department, with instructions to the Trustee first to apply such payments to satisfy the obligations of the Lessor under the Equipment Trust Agreement known to the Trustee to be due and payable on the date such payments are due

and payable hereunder and second, so long as no Event of Default under the Equipment Trust Agreement shall have occurred and be continuing, to pay any balance promptly to the Lessor in immediately available funds at 235 Montgomery Street, San Francisco, California 94104, or to such other place as the Lessor shall specify in writing. The Lessee agrees to make the payments provided for herein as contemplated by this paragraph.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or otherwise or against the Trustee; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use of or destruction of all or any of the Units from whatsoever cause, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease or lack of right, power or authority of the Lessor to enter into this Lease, or by reason of any failure by the Lessor to perform any of its obligations herein contained, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease.

§ 3. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of the acceptance thereof by the Lessee pursuant to § 1 hereof and, subject to the provisions of §§ 6, 9 and 12 hereof, shall terminate on the date on which the final semiannual payment of rent in respect thereof is due hereunder.

be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the original or any extended term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee in addition to paying the Casualty Value for such Unit shall pay interest thereon at the prime rate of interest which the Trustee would charge on the date of such payment for 90-day loans to borrowers of the highest credit standing, from the end of such term to the date of such payment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have been lost, stolen or completely destroyed, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit.

Except as provided in the last sentence of this paragraph, the Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to Section 5.07 of the Equipment Trust Agreement or (y) that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

CASUALTY VALUE

| Rental Payment Date No. | Percentage | Rental Payment Date No. | Percentage |
|----------------------------|------------|----------------------------|------------|
| 1 | 106.5158% | 17 | 75.4434% |
| 2 | 106.5804 | 18 | 71.7782 |
| 3 | 107.7531 | 19 | 68.0025 |
| 4 | 108.5119 | 20 | 64.1101 |
| 5 | 109.0122 | 21 | 60.1185 |
| 6 | 107.9033 | 22 | 56.0182 |
| 7 | 104.7417 | 23 | 51.8305 |
| 8 | 104.7186 | 24 | 47.5427 |
| 9 | 104.5795 | 25 | 43.1730 |
| 10 | 102.9518 | 26 | 38.7053 |
| 11 | 99.3651 | 27 | 34.1539 |
| 12 | 96.4984 | 28 | 29.4999 |
| 13 | 93.4821 | 29 | 24.7589 |
| 14 | 88.9359 | 30 | 19.9107 |
| 15 | 82.4033 | 31 and thereafter | 15.0000 |
| 16 | 78.9841 | | |

The Casualty Value of any Unit which shall suffer a Casualty Occurrence prior to settlement for such Unit pursuant to Section 4.02 of the Equipment Trust Agreement and which, because of such Casualty Occurrence, is not settled for, shall be an amount equal to the Cost of such Unit.

Except hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

§ 7. *Annual Reports.* On or before April 1 in each year, commencing with the year 1973, the Lessee will furnish to the Lessor and the Trustee, in such number of counterparts or copies as may reasonably be requested, a Lessee's Certificate, as of the preceding December 31, (i) showing the amount, description and numbers of all Units then leased hereunder and the amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such Lessee's Certificate), and such other information regarding the condition and state of repair of the Units as the Lessor or the Trustee may reasonably request and (ii) stating that, in the case of all Units repaired or repainted during the period covered thereby, the markings required by § 4 hereof and Section 5.06 of the Equipment Trust Agreement have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its agents, to inspect the Units and the records of the Lessee with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification; and Insurance.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to its title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor**

absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of an 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable opinion of the Beneficiary, cause the Beneficiary's net return under this Lease to be equal to the net return that would have been

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY.

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

be entitled to recover possession of such Unit. If the date upon which the making of such payment by the Lessee in respect of any Unit is required as aforesaid shall be after the original or any extended term of this Lease in respect of such Unit, no rental for such Unit shall accrue after the end of such term but the Lessee in addition to paying the Casualty Value for such Unit shall pay interest thereon at the prime rate of interest which the Trustee would charge on the date of such payment for 90-day loans to borrowers of the highest credit standing, from the end of such term to the date of such payment. The Lessor shall, upon request of the Lessee, after payment by the Lessee of a sum equal to the Casualty Value of any Unit which shall have been lost, stolen or completely destroyed, execute and deliver to or upon the order of the Lessee a bill of sale (without warranties) for such Unit.

Except as provided in the last sentence of this paragraph, the Casualty Value of each Unit as of any rental payment date shall be the greater of (x) the Fair Value thereof as determined pursuant to Section 5.07 of the Equipment Trust Agreement or (y) that percentage of the Cost of such Unit as is set forth in the following schedule opposite the number of such rental payment date:

CASUALTY VALUE

| Rental Payment Date No. | Percentage | Rental Payment Date No. | Percentage |
|----------------------------|------------|----------------------------|------------|
| 1 | 106.5158% | 17 | 75.4434% |
| 2 | 106.5804 | 18 | 71.7782 |
| 3 | 107.7531 | 19 | 68.0025 |
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| 9 | 104.5795 | 25 | 43.1730 |
| 10 | 102.9518 | 26 | 38.7053 |
| 11 | 99.3651 | 27 | 34.1539 |
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| 13 | 93.4821 | 29 | 24.7589 |
| 14 | 88.9359 | 30 | 19.9107 |
| 15 | 82.4033 | 31 and thereafter | 15.0000 |
| 16 | 78.9841 | | |

The Casualty Value of any Unit which shall suffer a Casualty Occurrence prior to settlement for such Unit pursuant to Section 4.02 of the Equipment Trust Agreement and which, because of such Casualty Occurrence, is not settled for, shall be an amount equal to the Cost of such Unit.

Except hereinabove in this § 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

§ 7. *Annual Reports.* On or before April 1 in each year, commencing with the year 1973, the Lessee will furnish to the Lessor and the Trustee, in such number of counterparts or copies as may reasonably be requested, a Lessee's Certificate, as of the preceding December 31, (i) showing the amount, description and numbers of all Units then leased hereunder and the amount, description and numbers of all Units that may have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such Lessee's Certificate), and such other information regarding the condition and state of repair of the Units as the Lessor or the Trustee may reasonably request and (ii) stating that, in the case of all Units repaired or repainted during the period covered thereby, the markings required by § 4 hereof and Section 5.06 of the Equipment Trust Agreement have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its agents, to inspect the Units and the records of the Lessee with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

§ 8. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification; and Insurance.* **The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessee hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to its title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor**

absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of an 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable opinion of the Beneficiary, cause the Beneficiary's net return under this Lease to be equal to the net return that would have been

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY.

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in § 11 hereof, the Lessee represents and warrants that (i) all of the Units constitute property the entire Cost of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer;

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of the Units and thenceforth hold, possess and enjoy the same free from any right of the Lessee, its successors or assigns, to use the Units for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rentals for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on a basis of an 6% per annum discount, compounded semiannually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (ii) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental, and (iii) an amount which, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable opinion of the Beneficiary, cause the Beneficiary's net return under this Lease to be equal to the net return that would have been

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY.

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in § 11 hereof, the Lessee represents and warrants that (i) all of the Units constitute property the entire Cost of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer;

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

In the event that the Trust Certificates shall bear dividends on the unpaid principal amount thereof at a rate other than 8.40% per annum, the Lessor and the Lessee shall enter into an appropriate supplement to this Lease appropriately modifying the provisions hereof, including §§ 2, 6 and 12 hereof, in such manner that the rental payable hereunder shall be sufficient to discharge the Lessor's obligations under Sections 5.04(c), (d) and (e) of the Equipment Trust Agreement and the Lessor shall be provided with a net return hereunder equal to the net return that would have been available to the Lessor hereunder if the Trust Certificates had been issued to persons other than the Lessor and had borne dividends at a rate equal to 8.40% per annum.

§ 20. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of April 1, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§ 22. *Obligations of Lessor Under Equipment Trust Agreement.* In the event that the Lessor shall become obligated to make any payment (other than pursuant to Section 4.03 of the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than pursuant to Section 4.03 of the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with. The Lessor will pay over to the Lessee any amounts received by it pursuant to the last sentence of Section 9.04 of the Equipment Trust Agreement.

§ 23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against any beneficiary of a trust for which the Lessor is acting as Trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

§ 24. *Provisions Concerning Subordinated Notes.* It is the intention of the parties hereto that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee covenants and agrees that if an Event of Default exists hereunder or an Event of Default (as defined in the Equipment Trust Agreement) exists under the Equipment Trust Agreement or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

§ 25. *Increase of User Rates.* The Lessee covenants and agrees (i) that, if an Event of Default exists under § 9(A) hereof by reason of the failure of the Lessee to pay to the Trustee within the grace period provided in § 9(A) hereof, all or any part of the rentals due and payable under § 2 hereof required for the payment of the principal of or dividends on the Trust Certificates (but not including any principal or dividends payable by reason of acceleration of the date of payment thereof), the Lessee will, upon written notice by the Lessor so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, unless in connection with an assignment or transfer to a corporation which shall acquire all or substantially all of the property of the Lessee pursuant to Section 5.09 of the Equipment Trust Agreement, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay all such overdue principal and dividends (with interest on overdue principal and dividends at the Penalty Rate, to the extent that it shall be legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or

that the foregoing clause shall not in any way relieve the Lessee of its obligations pursuant to § 6 hereof to make payments provided for therein in respect of any Unit experiencing a Casualty Occurrence during the original or any extended term of this Lease.

§ 14. *Opinion of Counsel.* On the date on which Trust Certificates are issued pursuant to Section 2.01 of the Equipment Trust Agreement, the Lessee will deliver to the Lessor and the Trustee the written opinion of counsel of the Lessee, in such number of counterparts as may reasonably be requested, and addressed to the Lessor and the Trustee, in scope and substance satisfactory to them and their counsel. to the effect that:

A. the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Delaware, with full corporate power to enter into this Lease, the Equipment Trust Agreement, the Manufacturing Agreements and any equipment purchase agreements relating to the Units (and any assignment thereof);

B. this Lease, the Equipment Trust Agreement, the Manufacturing Agreements and any equipment purchase agreements relating to the Units (and any assignment thereof) have been duly authorized, executed and delivered by the Lessee and, assuming the due authorization, execution and delivery thereof by the other parties thereto, constitute valid, legal and binding agreements, enforceable in accordance with their terms;

C. this Lease and the Equipment Trust Agreement have been duly filed and recorded with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act, and will protect the Lessor's title and interest in and to the Units and the Trustee's security title and interest in and to the Units, and no filing, recording or deposit (or giving of notice) with any other Federal, state or local government or agency or instrumentality thereof is necessary to protect the title and interest of the Lessor or the security title and interest of the Trustee in and to the Units in the United States of America;

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY.

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in § 11 hereof, the Lessee represents and warrants that (i) all of the Units constitute property the entire Cost of which qualifies for the Investment Credit under Section 50 of the Code; (ii) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and at the time the Lessor becomes the owner of the Units, the Units will not have been used by any person so as to preclude "the original use of such property" within the meaning of Section 48(b) and 167(c)(2) of the Code from commencing with the Lessor; and (iii) at all times during the term of this Lease, each Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code and will be used by railroad companies; and (iv) the Lessee will maintain sufficient records to verify such use.

§ 18. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States registered mails, first-class postage prepaid, addressed as follows:

If to the Lessor, at 235 Montgomery Street, San Francisco, California 94104, *attention of* Edgar H. Canfield, Vice President and Trust Officer;

If to the Lessee, at 300 South Wacker Drive, Chicago, Illinois 60606, *attention of* the Vice President—Finance;

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 19. *Severability; Effect and Modification of Lease.* Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

This Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the Units and supersedes all other agreements, oral or written, with respect to the Units. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

In the event that the Trust Certificates shall bear dividends on the unpaid principal amount thereof at a rate other than 8.40% per annum, the Lessor and the Lessee shall enter into an appropriate supplement to this Lease appropriately modifying the provisions hereof, including §§ 2, 6 and 12 hereof, in such manner that the rental payable hereunder shall be sufficient to discharge the Lessor's obligations under Sections 5.04(c), (d) and (e) of the Equipment Trust Agreement and the Lessor shall be provided with a net return hereunder equal to the net return that would have been available to the Lessor hereunder if the Trust Certificates had been issued to persons other than the Lessor and had borne dividends at a rate equal to 8.40% per annum.

§ 20. *Execution.* This Lease may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument. Although this Lease is dated as of April 1, 1972, for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

§ 21. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Illinois; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof or out of the marking on the Units as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited or in which any Unit may be located.

§ 22. *Obligations of Lessor Under Equipment Trust Agreement.* In the event that the Lessor shall become obligated to make any payment (other than pursuant to Section 4.03 of the Equipment Trust Agreement) or to perform any other obligations pursuant to the Equipment Trust Agreement not covered by the provisions of this Lease, the Lessee shall pay such additional amounts to the Trustee and perform such obligations so that the Lessor's obligations (other than pursuant to Section 4.03 of the Equipment Trust Agreement) pursuant to the Equipment Trust Agreement shall be fully complied with. The Lessor will pay over to the Lessee any amounts received by it pursuant to the last sentence of Section 9.04 of the Equipment Trust Agreement.

§ 23. *No Recourse.* No recourse shall be had in respect of any obligation due under this Lease, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the Lessor or the Lessee, or against any beneficiary of a trust for which the Lessor is acting as Trustee, whether by virtue of any constitutional provision, statute or rule of law or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of incorporators, stockholders, directors, officers, or beneficiaries being forever released as a condition of and as consideration for the execution of this Lease.

§ 24. *Provisions Concerning Subordinated Notes.* It is the intention of the parties hereto that the obligations of the Lessee under this Lease shall be superior in right of payment to all the Lessee's Thirty Year Subordinated Notes sold or to be sold pursuant to a Note Purchase Agreement dated as of January 1, 1967, between the Lessee and certain of its stockholders. The Lessee covenants and agrees that if an Event of Default exists hereunder or an Event of Default (as defined in the Equipment Trust Agreement) exists under the Equipment Trust Agreement or any event which, with the giving of notice or the lapse of time, or both, would constitute such an Event of Default, shall have occurred and be continuing, the Lessee will not voluntarily prepay or retire any of such Notes.

§ 25. *Increase of User Rates.* The Lessee covenants and agrees (i) that, if an Event of Default exists under § 9(A) hereof by reason of the failure of the Lessee to pay to the Trustee within the grace period provided in § 9(A) hereof, all or any part of the rentals due and payable under § 2 hereof required for the payment of the principal of or dividends on the Trust Certificates (but not including any principal or dividends payable by reason of acceleration of the date of payment thereof), the Lessee will, upon written notice by the Lessor so to do, within ten days after receipt of such notice, deliver to all parties to its Form A and Form B car contracts (or such other Forms as may hereafter be used in substitution or in replacement of such Form A and Form B car contracts) due and proper notice of increases in the car user charges under such contracts, (ii) that all car contracts covering any unit or units of railroad equipment of which the Lessee is the owner or the lessee will contain provisions permitting the Lessee to require such increases and (iii) that, unless in connection with an assignment or transfer to a corporation which shall acquire all or substantially all of the property of the Lessee pursuant to Section 5.09 of the Equipment Trust Agreement, the Lessee will not assign or transfer its rights and obligations to require such increases under any such car contracts. Such increases shall commence to accrue and shall be effective on the first day of the first calendar month beginning subsequent to ten days after delivery of such notice by the Lessee to the parties to such car contracts. Such increases shall be in such amounts or percentages as will cause to accrue and be payable to the account of the Lessee in respect of the first calendar month during which they are in effect such additional sums of money as will be needed by the Lessee to enable it to pay all such overdue principal and dividends (with interest on overdue principal and dividends at the Penalty Rate, to the extent that it shall be legally enforceable) and to cure any defaults in payment of any principal, dividends or interest (or rentals intended to provide for payment thereof) payable under comparable provisions of any other equipment trust, conditional sale or other equipment agreement of the Lessee not guaranteed jointly and severally by its shareholders or a group of its shareholders (except defaults arising by reason of acceleration of the date of payment of instalments of principal, dividends or

interest, or rentals intended to provide for payment thereof), whether heretofore or hereafter entered into, based upon the most recent records or information available to the Lessee relating to the use of its cars. If for any reason any such increases so made by the Lessee shall fail to provide in 90 days sufficient cash to enable the Lessee to cure such default or defaults hereunder and under any other such agreements, or if cash is provided but is not for any reason applied to cure such defaults, the Lessee will, upon receipt of written notice from the Lessor so to do, promptly make such further increases in its user charges as may from time to time be necessary to enable the Lessee to cure all such defaults hereunder and under such other agreements.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be duly executed as of the date first above written.

FIRST WESTERN BANK AND TRUST
COMPANY,
as trustee,

[CORPORATE SEAL]

by
Trust Officer.

Attest:

.....
Assistant Secretary.

TRAILER TRAIN COMPANY.

[CORPORATE SEAL]

by
Vice President—Finance.

Attest:

.....
Assistant Secretary.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO } ss.:

On this day of May, 1972, before me personally appeared A. M. G. RUSSELL, to me personally known, who, being by me duly sworn, says that he is a Trust Officer of FIRST WESTERN BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

[NOTARIAL SEAL]

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

On this day of May, 1972, before me personally appeared N. V. REICHERT, to me personally known, who, being by me duly sworn, says that he is the Vice President—Finance of TRAILER TRAIN COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

.....
Notary Public

My Commission expires July 24, 1975

[NOTARIAL SEAL]

SCHEDULE A

| Type | Quantity | Lessee's Car Numbers (All Inclusive) | Unit Cost | Total Cost |
|---|------------|--|--------------|-----------------------|
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 603576 to 603645 | \$15,310.00 | \$1,071,700.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 56 | 970745 to 970747 970750 970752 to 970803 | 21,300.00 | 1,192,800.00 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 62 | 158315 to 158376 | 15,295.00 | 948,290.00 |
| | 36 | 964117 to 964152 | 17,950.00 | 646,200.00 |
| 89'4" 70-ton capacity, standard level, auto rack flat cars | 7 | 940773 to 940779 | 17,550.91 | 122,856.37 |
| 89'4" 70-ton capacity, standard level, auto frame flat cars | 70 | 253650 to 253719 | 15,300.00 | 1,071,000.00 |
| 89'4" 70-ton capacity, standard level, all purpose flat cars | 10 | 972966 to 972975 | 21,357.00 | 213,570.00 |
| | <u>311</u> | | | <u>\$5,266,416.37</u> |